IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 12807 of 2004

Between:

Gundu Appala Raju, S/o.Late Narasimham,
Employee in Visakhapatnam Port Trust, Visakhapatnam.

..... PETITIONER

AND

Station House Officer, Harbour police Station, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly a writ in the nature of Mandamus under article 226 constitution of India declaring the action of 1st Respondent having received complaint and also issued receipt but not even registered crime even after lapse a couple years is illegal, improper and void and arbitrary.

Counsel for the Petitioner: SMT.A.PADMA

Counsel for the Respondent: GP FOR HOME

The Court made the following:

ORDER:

Petitioner seeks Writ of Mandamus declaring the alleged inaction of the respondent in registering the Crime, on the basis of his complaint dated 11-12-1999, as arbitrary and illegal.

2. In the affidavit filed in support of the writ petition, it is stated that the petitioner is an employee in VSPT and also a social worker. It is further stated that the petitioner submitted a representation before the authorities against one Mr. Shivakumar Raju, who was working as Vigilance Officer, in Visakhapatnam Port Trust, alleging that he was involved in the Port Land Scam, on the basis of which, a C.B.I. enquiry has been initiated. Subsequently, the petitioner addressed a letter to the Director, C.B.I., New Delhi on 18-02-2002 requesting to conduct an enquiry against Shivakumar Raju and other persons who are involved in the said Scam and requested to take proper action expeditiously. However, the C.B.I. failed to register any crime till date. It is further stated that on 11-12-1999, the petitioner submitted a complaint before the respondent-Station House Officer, Habour Police Station, Visakhapatnam, requesting to register a crime against the said Shivakumar Raju. Having received the complaint on 11-12-1999, the respondent failed to take any action. The petitioner addressed a letter to the Commissioner of Police, Visakhapatnam City on 04-01-2000. In pursuance thereof, the Commissioner of Police, vide Proceedings No.560/CATMP/CP/VSP/99 dated 05-01-2001 directed the Superintendent of Police, C.B.I., to take necessary action. Again in the year 2002, the petitioner submitted another complaint to the respondent to register the crime. However, no steps have been taken. Hence, this writ petition.

3. The Assistant Sub-inspector of Police, who is in-charge of the Station House Officer, Harbour Police Station, Visakhapatnam filed a counter affidavit stating that

pursuant to the complaint of the petitioner dated 11-12-1999 the then Sub-inspector of Police caused enquiries and the allegations made in the said complaint found to be false and baseless and, therefore, no further action was taken. It is also stated that the petitioner is an accused in Crime No.91 of 2000 under Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered on the file of the V Town Police Station, Visakhapatnam, basing on a complaint of one Y. Narayana, which was subsequently ended in acquittal vide S.C.No.1 of 2001. The petitioner being the president of Visakha Seva Sangham filed W.P. No. 24473 of 1999 against Port officials and Union of India, which was also dismissed. It is further stated that the petitioner is in the habit of making complaints against various officials and the W.P. is misconceived and liable to be dismissed.

4. In the light of the averments made in the counter-affidavit, I do not find any substance in the allegations made by the petitioner. On the basis of the complaint made by the petitioner on 11-12-1999, the respondents made the necessary enquiry and the allegations were found to be false. At any rate, the fact that the petitioner having made the complaint in the year 1999 failed to pursue the same for the past 5 years itself shows that this W.P. is not bonafide. Moreover the writ petition is liable to be dismissed on the ground of latches also since the relief sought is based on a complaint lodged in the year 1999.

5. Accordingly, the writ petition is dismissed. No costs.

_____

G. ROHINI, J

02-09-2004

Glv/Gbs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to:

1. The Station House Officer, Harbour police Station, Visakhapatnam.

1. Two C Cs to the Government Pleader for Home, High Court Buildings, Hyderabad. (O.U.T)

3. Two C D copies.